



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,235	08/19/2004	Nicholas Arthur Scott	RR-569 PCT/US	3884
20427	7590	10/16/2009		
RODMAN RODMAN 10 STEWART PLACE SUITE 2CE WHITE PLAINS, NY 10603				
EXAMINER				
AUGUSTIN, EVENS J				
ART UNIT		PAPER NUMBER		
3621				
MAIL DATE		DELIVERY MODE		
10/16/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/505,235

Applicant(s)

SCOTT, NICHOLAS ARTHUR

Examiner

EVENS J. AUGUSTIN

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,5-28 and 31-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,5-28 and 31-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

1. This is in response to an amendment filed on 03/18/09. Claims 3, 5-28, 31-32 and 33-36 are pending. Claims 3, 5-28, 31-32 and 33-36 have been examined.
2. According to MPEP 2181, Section II, 35 U.S.C. 112, sixth paragraph states that a claim limitation expressed in means-plus-function language "shall be construed to cover the corresponding structure...described in the specification and equivalents thereof." "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112." In re Donaldson Co., 16 F.3d 1189, 1195, 29 USPQ2d 1845, 1850 (Fed. Cir. 1994) (in banc). This office action is to give applicant an opportunity to reconcile the corresponding structures in the claims with means-plus-function language.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 5-28, 31-32 and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Planke (U.S. 5902984), in view of Cook et al. (U.S. 20010033752).
5. As per claims 3, 5-28, 31-32 and 33-36, Planke discloses an invention relates to a system for the sale of consumer goods, where the purchaser of an article at the place of purchase collects one or more non-validated card symbols of the article, where data carried on the symbol of the article are read and registered, where such data are converted to a price for the article which is paid by the purchaser of the article, where the purchaser of the article receives a validated symbol of the article, and where the article is dispensed to the purchaser at a dispensing location in return for his/her depositing the validated symbol of the article. The computer system includes:
 - A. An optically readable card with data containing the item to be purchased in the form of a serial number (column 2, lines 12-16). The uniqueness of the serial number implies that is generated serially.
 - B. A merchandise dispensing unit to dispense merchandise in accordance with the corresponding serial number (serially generated transaction code)(column 2, lines 17-18)
 - C. A checkout unit (cash register), where the optically readable card is validated (column 2, lines 25-30)
 - D. A comparator unit to reconcile the information received by dispensing unit (column 4, lines 26-29)
 - E. The type of information in the card can be a bar code and magnetically readable code (column 3, lines 42-43), or EAN code (column 5, lines 41)

- F. After the card is validated at the check out unit, the validation signal is sent to the merchandise dispenser to be able to recognize and accept the validated card before dispensing the merchandise (column 4, lines 21-50, column)
 - G. The ability to transmit the validation signal from the check out unit to the merchandise dispenser via a connection (column 4, lines 44-45, figure 1, items 9 and 15)
 - H. The check out unit includes a scanner or a bar code reader (column 3, lines 49-51)
6. Planke did not explicitly describe a method/system in which the initial non-validated card/token/ticket is dispensed by a mechanism such as dispensing unit. However, Cook et al. describes an invention in which a self-service terminal can print a receipt that represents a product, which gets validated or paid for at the cashier. The cashier in turn gives the customer with a receipt having a printed bar code that can be read by the reader at the same self service terminal (par. 28).
7. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to modify Planke's invention of a merchandise dispenser that validates/reads validation card/token/ticket with Cook et al.'s invention in which a self-service terminal can print a receipt that represents a product, which gets validated or paid for at the cashier.
8. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to achieve such modification because it would reduce theft/fraud by requiring a product to be paid for before the customer takes possession of the product.

Conclusion

9. *Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that if the applicant is preparing to respond, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.*

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EVENS J. AUGUSTIN whose telephone number is 571-272-6860. The examiner can normally be reached on 10am - 6pm M-F.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571)272-6779.

/Evens J. Augustin/
Evens J. Augustin
October 16, 2009
Art Unit 3621